UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,680	01/29/2001	Nils B. Lahr	39564A	5435

22206 7590 06/23/2004

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA, OK 74103-3318

EXAMINER	
ISMAIL, SHAWKI SAIF	
ART UNIT	**PAPER NUMBER**
2155	10

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/770,680	LAHR, NILS B.	
	Examiner	Art Unit	
	Shawki S Ismail	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *January 29, 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 3 9.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-12 are presented for examination.

The references in IDS, paper No. 3 and 9 have been considered.

Claim Rejections - 35 USC §102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Markowitz et al. (Markowitz)**, U.S. Patent No. **6,484,212**.

4. As to claim 1, Markowitz teaches a system, adapted for use with a distributed data delivery network, for duplicating data being distributed in the network, comprising:

a data storage (media storage device 116); and

a data distributor (media server 135), adapted to distribute data as streaming data at a first bitrate to at least one data server in the network (col. 3, lines 34-40, the media server 135 streams the version of the media information to the user device),

while writing said data to said data storage at substantially said first bitrate (col. 3, lines 57-59, versions of the media information is stored at a media storage device.)

5. As to claim 2, Markowitz teaches a system as claimed in claim 1, wherein: said data distributor comprises an encoder (col. 3, lines 4-11, media server encodes the media information into multiple versions), adapted to encode said data to create said streaming data at said first bitrate.

6. As to claim 3, Markowitz teaches a system as claimed in claim 1, wherein:

said data storage includes a disk, and said data distributor is adapted to write said data to said disk at substantially said first bitrate (col. 6, lines 12-17.)

7. As to claim 4, Markowitz teaches a system as claimed in claim 1, wherein:

said data storage is disposed at a data server in said network (fig. 1, media storage device is disposed at a media server in the network.)

8. As to claim 5, Markowitz teaches a system as claimed in claim 1, wherein:

said data storage is disposed at one of said at least one data server in said network (fig. 1, media storage device is disposed at a media server in the network.)

9. As to claim 6, Markowitz teaches a system as claimed in claim 1, further comprising:

a reader, adapted to read said data stored at said data storage at a read rate substantially equal to said first bitrate (gateway proxy device 115, col. 3, lines 15-27, reads the information in the data storage and streams it to the user device.)

10. As to claim 7, Markowitz teaches a method for duplicating data being distributed in a distributed data delivery network, comprising:

distributing data as streaming data at a first bitrate to at least one data server in the network (col. 3, lines 34-40, the media server 135 streams the version of the media information to the user device); and

writing said data to a data storage at substantially said first bitrate while performing said distributing step (col. 3, lines 57-59, versions of the media information is stored at a media storage device.)

11. As to claim 8, Markowitz teaches a method as claimed in claim 7, wherein:

said data distributing step includes encoding said data to create said streaming data at said first bitrate (col. 3, lines 4-11, media server encodes the media information into multiple versions.)

12. As to claim 9, Markowitz teaches a method as claimed in claim 7, wherein:

said data storage includes a disk; and said data distributing step includes writing said data to said disk at substantially said first bitrate (col. 6, lines 12-17.)

13. As to claim 10, Markowitz teaches a method as claimed in claim 7, wherein:

said data storage is disposed at a data server in said network (fig. 1, media storage device is disposed at a media server in the network); and

said writing step writes said data to said data storage disposed at said data server (col. 3, lines 57-59, versions of the media information is stored at a media storage device.)

14. As to claim 11, Markowitz teaches a method as claimed in claim 7, wherein:

said data storage is disposed at one of said at least one data server in said network (fig. 1, media storage device is disposed at a media server in the network);

said writing step writes said data to said data storage disposed at said one of said at least one data server (col. 3, lines 57-59, versions of the media information is stored at a media storage device.)

15. As to claim 12, Markowitz teaches a method as claimed in claim 7, further comprising:

reading said data stored at said data storage at a read rate substantially equal to said first bitrate (gateway proxy device 115, col. 3, lines 15-27, reads the information in the data storage and streams it to the user device.)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawki S Ismail whose telephone number is 703-605-4362. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached at 703-308-6662. The fax phone number for the organization where this application or proceeding is assigned is (703)308-5403.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SI

June 21, 2004

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER